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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,301	12/09/2004	Nobuhiro Gotou	040650	5588

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EXAMINER

DOAN, JENNIFER

ART UNIT PAPER NUMBER

2874

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/516,301

Applicant(s)

GOTOU ET AL.

Examiner

Jennifer Doan

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The amendment, filed on April 24, 2006, has been considered and entered.

Claims 1-6 are now pending.

Claim 7 was canceled.

Claim 1 is amended. The previous ground of rejection is now changed in this Office Action in response to the amendment of claim 1. Since the new ground of rejection is necessitated by the amendment, this office action is made final.

### ***Specification***

1. Applicants' cooperation is requested in correcting any errors of which applicants may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

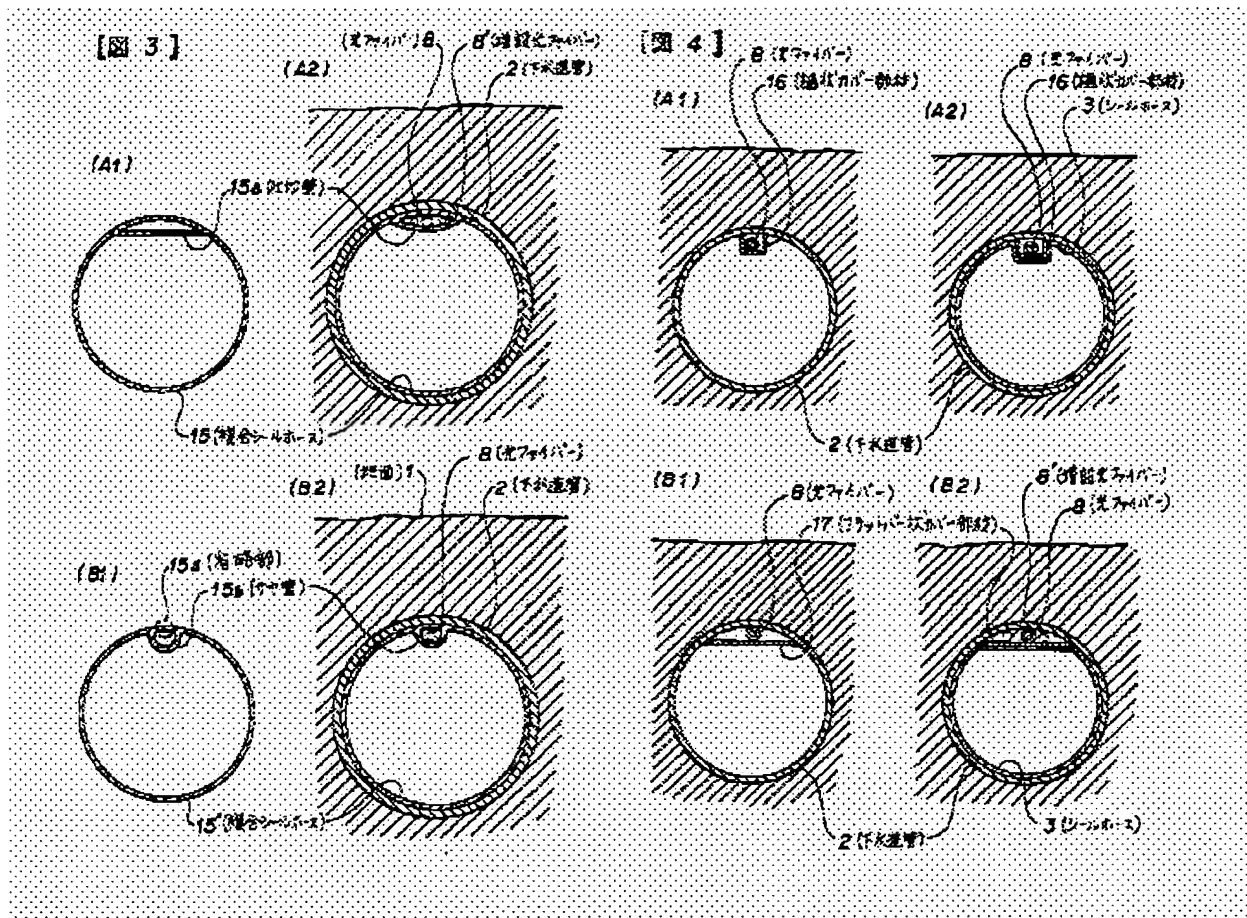
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Takeji et al. (JP 11-198231).

With respect to claim 1, Takeji et al. (figures 3 and 4) disclose a method of distributing and laying, inside a building, optical fiber cables drawn into the building from a trunk cable, the method comprising passing the optical fiber cables ((8) and see [0001]) through the inside of a gutter or drain pipe, wherein a support having concavo-convex portions is provided with which a plurality of optical fiber cables ((8) and see [0001]) is placed and supported inside the gutter or drain pipe (2) around an outer circumference of the support (16) so that the optical fiber cables through the gutter or drain pipe (2) and water may pass through a center cavity of the support (16) (see [0028]).

With respect to claim 4, Takeji et al. (figure 4B2) disclose the method of distributing and laying optical fiber cables, wherein a partition plate (17) is disposed inside the gutter or drain pipe (2).

With respect to claim 5, Takeji et al. disclose the method of distributing and laying optical fiber cables, wherein a sheath tube is passed through the inside of the gutter or drain pipe, wherein the optical fiber cables are passed through the sheath tube (as shown in figure 4A2 and 4B2).



### Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takeji et al. (as cited above).

With respect to claim 2, Takeji et al. substantially discloses all the limitations of the claimed invention except Takeji et al. do not disclose the occupied cross-sectional area of the optical fiber cables passed through the inside of the gutter or drain pipe is equal to or less than 50% of the cross-sectional area of the inside of the gutter or drain pipe.

However, the occupied cross-sectional area of the optical fiber cables passed through the inside of the gutter or drain pipe being equal to or less than 50% of the cross-sectional area of the inside of the gutter or drain pipe is considered to be obvious, since the efficiency of the optical signal transmission is dependent on the cross sectional area of the optical fiber cables. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the occupied

cross-sectional area of the optical fiber cables passed through the inside of the gutter or drain pipe of the Takeji's device with the value as claimed to transmit the light signal for the purpose of obtaining the highly efficient transmission of optical signal, and it also has been held that discovering an optimum value of a result effective variable involves only routine skill in the art and it is noted that the applicant does not disclose criticality in the value claimed. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980) (see MPEP § 2144.05).

With respect to claim 6, Takeji et al. substantially discloses all the limitations of the claimed invention except Takeji et al. do not disclose sheath tubes having a plurality of sheath portions laterally coupled together inside of the gutter or drain pipe for the optical fiber cables passing through.

However, the sheath tubes having a plurality of sheath portions laterally coupled together inside of the gutter or drain pipe for the optical fiber cables passing through are considered to be obvious. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Takeji to reproduce the sheath tube having a plurality of sheath portions laterally coupled together inside of the gutter or drain pipe for the optical fiber cables passing through for the purpose of providing more protection. It is also noticed that it has been held the mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takeji et al. (as cited above) in view of Sadaji et al. (JP 04-199105).

With respect to claim 3, Takeji et al. substantially discloses all the limitations of the claimed invention except Takeji et al. do not disclose a branch pipe is connected to the gutter or drain pipe.

However, Sadaji et al. (figure 2) disclose a branch pipe (12) is connected to the gutter or drain pipe (13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Takeji with the branch pipe to connect the gutter or drain pipe (accordance with the teaching of Sadaji et al.) for the purpose of facilitating the easy clean up of the gutter or drain pipe system.

### ***Response to Arguments***

8. Applicants' argument filed on April 24, 2006 has been fully considered.

9. With respect to claims 1-6:

On page 5-7 of the remarks, it is argued that Nakamura does not disclose " a support having concavo-convex portions capable of arranging and supporting a plurality of optical fiber cables is disposed inside the gutter or drain pipe" as recited in amended claim 1.

The examiner fully agrees with these applicants' arguments that the method for making the device of Nakamura distinguishes from the method for making the device of the applicants' invention. Therefore, the rejection based on Nakamura has been



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withdrawn. However, the examiner respectfully submits that a new ground of rejection based on the Takeji et al. and Sadaji et al. references has been applied to claims 1-6 in response to the amendment of the claims.

Please refer to claim rejections 35 U.S.C. 102 above for claims 1, 4 and 5.

Please refer to claim rejection 35 U.S.C. 103 above for claims 2, 3 and 6.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bryant (U.S. 5,548,931) discloses a drainage pipe system.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Doan whose telephone number is (571) 272-2346. The examiner can normally be reached on Monday to Thursday from 6:00 am to 3:30 pm, second Friday off.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JD

July 7, 2006

*Jennifer Doan*  
JENNIFER DOAN  
PRIMARY EXAMINER